



07 JUL 2003

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In re Application of
CORDICK, et al.
U.S. Application No.: 09/743,757
PCT No.: PCT/CA99/00628
Int. Filing Date: 13 July 1999
Priority Date: 13 July 1998
For: BACTERIA AS ODOR CONTROL
AGENTS FOR CARPET

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. 1.8(1)" filed 02 April 2003 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 29 January 2003, applicant filed the present unsigned facsimile accompanied by copies of the papers purportedly filed by facsimile on 20 March 2001.

On 26 February 2003, applicant was mailed a communication informing applicant that in addition to being unsigned, the correspondence filed 29 January 2003 did not include any cover letter or other instructions as to the accompanying papers. Applicant was informed that the present application remained abandoned as to the National Stage in the United States and advised to file either a proper petition under 37 CFR 1.181 to withdraw the holding of abandonment or a petition under 37 CFR 1.137(b) to revive the application as applicant sees fit.

On 02 April 2003, applicant filed the present petition to withdraw the holding of abandonment.

DISCUSSION

37 CFR 1.8(b) states:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and

the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice the correspondence will be considered timely filed if the party who forwarded the correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

With the present petition, applicant has satisfied items (1) and (2) above.

Regarding item (3), applicant has not provided a statement attesting on a personal knowledge basis to the previous timely facsimile transmission. As such, applicant's petition under 37 CFR 1.181 can not be granted at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is DISMISSED.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.181." No additional fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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